

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

REAL PROPERTY LOCATED AT 19245
FROST, MARIJUANA, TRIPLE-BEAM SCALE,
REMINGTON MODEL 870 20 GAUGE
SHOTGUN, 50 CALIBER BLACK POWDER
RIFLE, 22 CALIBER RIFLE WITH SCOPE, 22
CALIBER SEMI-AUTOMATIC RIFLE, SEMI-
AUTOMATIC 12 GAUGE SHOTGUN, 22
CALIBER MAGNUM RIFLE WITH SCOPE, and
AMMUNITION,

Defendants,

and

PAUL EDWIN STRASEL,

Claimant-Appellee.

UNPUBLISHED

February 7, 2003

No. 236135

Saginaw Circuit Court

LC No. 99-900114-CF

Before: Sawyer, P.J., and Jansen and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right the dismissal of this civil forfeiture action, specifically challenging the decision to suppress evidence. We affirm.

The circuit court held that plaintiff was barred by crossover estoppel from relitigating the issue whether the evidence must be suppressed. The issue was first decided in a federal criminal proceeding.

The exclusionary rule applies in civil forfeiture actions, *One 1958 Plymouth Sedan v Pennsylvania*, 380 US 693, 702; 85 S Ct 1246; 14 L Ed 2d 170 (1965), cited with approval in *United States v James Daniel Good Real Property*, 510 US 43, 49; 114 S Ct 492; 126 L Ed 2d 490 (1993); *In re Forfeiture of \$176,598*, 443 Mich 261, 265; 505 NW2d 201 (1993), because forfeiture is quasi-criminal, *In re Forfeiture of United States Currency*, 166 Mich App 81, 90; 420 NW2d 131 (1988).

Collateral estoppel precludes relitigation of any issue that was actually litigated and necessarily determined in a final, valid judgment in a subsequent, different cause of action between the same parties. *People v Gates*, 434 Mich 146, 154; 452 NW2d 627 (1990). Crossover estoppel occurs when the issue was first determined in a criminal proceeding and then was later raised in a civil proceeding, *id.* at 155, including suppression issues that were decided in criminal actions and then later raised in civil forfeiture actions, *In re Forfeiture of \$1,159,420*, 194 Mich App 134, 146; 486 NW2d 326 (1992).

A federal prosecutor and state prosecutor are considered the same party for estoppel purposes. *In re Forfeiture of \$1,159,420*, *supra* at 145-146. Therefore, the only question remaining is whether the issues plaintiff raised in the forfeiture action were actually litigated and necessarily determined in the federal criminal proceeding.

The federal court decided whether the warrantless search and subsequent search warrant were valid but did not expressly decide the specific arguments plaintiff raised in the forfeiture proceeding, except possibly exigent circumstances and emergency aid. The court did not expressly decide whether a caretaker exception applied or whether the warrant should be saved by the good faith exception.

However, those questions were necessarily encompassed by the ultimate issue regarding whether the evidence must be suppressed. Estoppel applies to the ultimate issue decided. *Eaton Co Road Comm'rs v Schultz*, 205 Mich App 371, 376-377; 521 NW2d 847 (1994). Plaintiff merely raised new theories to support a different resolution of the ultimate issue. Those theories should have been raised in the first proceeding. The circuit court did not err when it found relitigation barred by crossover estoppel.

Affirmed.

/s/ David H. Sawyer
/s/ Kathleen Jansen
/s/ Pat M. Donofrio